

EXHIBIT A

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

* * * * *

UNITED STATES OF AMERICA	*	NO. 4:23-CR-335-1
	*	Houston, Texas
VS.	*	
	*	2:03 p.m. - 2:28 p.m.
JAVIER ALEJANDRO AGUILAR	*	
MORALES	*	August 21, 2023

* * * * *

INITIAL APPEARANCE/ARRAIGNMENT

BEFORE THE HONORABLE YVONNE Y. HO
UNITED STATES MAGISTRATE JUDGE

* * * * *

Proceedings recorded by electronic sound recording
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DANIEL BERGER

1 P R O C E E D I N G S

2 2:03 P.M. - AUGUST 21, 2023

3 THE COURT: Good afternoon, everyone. Please
4 be seated.

5 The first case is 4:23-CR-335-1, United
6 States vs. Javier Alejandro Aguilar Morales.

7 MS. DANIEL: Good afternoon, Your Honor.
8 Sherin Daniel for the United States. And along with
9 me are my co-counsels for DOJ Assistant Chief Jonathan
10 Robbell and my Deputy Chief [u/i].

11 THE COURT: All right, thank you.

12 And then for -- I see you have counsel for
13 Mr. Aguilar.

14 MR. KOFFMANN: Yes, good afternoon, Daniel
15 Koffmann on behalf of Mr. Aguilar, who is here with me
16 in court, as well as Gary Zimmerman.

17 THE COURT: All right, good afternoon,
18 everyone.

19 All right. Mr. Aguilar, the purpose of
20 today's proceeding is to advise you of the charges
21 against you, to advise you about your rights, to
22 consider the question of counsel, to consider the
23 conditions of your release, if any, and set a date for
24 your next court appearance.

25 Have you received a copy of the Indictment

1 that was filed?

2 DEFENDANT AGUILAR MORALES: Yes.

3 THE COURT: Okay, I'm going to briefly review
4 those allegations with you. Give me a moment.

5 MR. KOFFMANN: Your Honor, if it would help
6 the Court, we would waive reading.

7 THE COURT: Well, I don't think I can waive
8 reading this go-around, but I can for the arraignment.
9 Okay.

10 This Indictment alleges that you and
11 others engaged in an international bribery and money
12 laundering scheme in which you knowingly, willfully,
13 corruptly offered and paid certain bribes to Mexican
14 officials to obtain and retain business for a company
15 called Vitol, Inc. with and related to Petroleos
16 Mexicanos, which is a state owned oil company in
17 Mexico, also called PEMEX, and its subsidiary, PEMEX
18 Procurement International, Inc.

19 There are five counts alleged in the
20 Indictment.

21 Count One alleges a conspiracy to violate
22 the Foreign Corrupt Practices Act under 18 U.S.C. 371.
23 This count alleges that starting around 2017 until
24 around July 10, 2020, within this Court's jurisdiction,
25 that you and others knowingly and willfully conspired

1 to commit violations of the Foreign Corrupt Practices
2 Act, first, by willfully and corruptly using mails and
3 means and instrumentalities of interstate commerce in
4 furtherance of an offer of payment, promise to pay, and
5 authorization of payment of money and something of
6 value to a foreign official, foreign political party,
7 and official thereof, while knowing that all or a
8 portion of the money or thing of value that was given
9 or promised to that person was for the purpose of
10 influencing the acts and decisions of that person in
11 the person's official capacity, inducing that person to
12 do and refrain from doing acts that violate the
13 person's lawful duties, inducing that person to use his
14 or her influence with the foreign government and its
15 agencies and instrumentalities to affect and influence
16 acts and decisions of the Government and its agencies
17 and instrumentalities in order to assist you, Vitol,
18 Inc, and others to obtain and retain business for, and
19 with and direct business to Vitol and others, which is
20 contrary to 15 U.S.C. 788DD/2.

21 And then as a second offense, while within
22 the U.S. Territory, the Government alleges that you
23 willfully and corruptly made use of the mails and means
24 of instrumentalities in interstate commerce and
25 committed other acts in furtherance of an offer and

1 payment and promise to pay, an authorization of payment
2 of something of value, and any money to a foreign
3 official, foreign political party, and official
4 thereof, while knowing that all or a portion of the
5 money or thing of value would be and had been offered
6 and given and promised to that person for the purpose
7 of influencing the acts and decisions of that person in
8 the person's official capacity, inducing the official
9 to do and refrain from doing something that violates
10 the person's lawful duties, securing an improper
11 advantage, and inducing the official to use his or her
12 influence with the foreign government and its agencies
13 and instrumentalities to affect and influence acts and
14 decisions of that government to assist a citizen of
15 Mexico, who resides in Harris County, Texas, and is
16 identified in this Indictment as Intermediary No. 1, as
17 well as others, in obtaining and retaining business for
18 and with, and directing business to Vitol, Inc. and
19 others, which violates 15 U.S.C. 788DD/3.

20 Count Two alleges a violation of the
21 Foreign Corrupt Practices Act under 15 U.S.C. 788DD/2,
22 and Section 2.

23 In addition to the allegations I've
24 explained to you in connection with Count One, this
25 count further specifies that around August 6, 2018,

1 that you allegedly used a Gmail address identified in
2 the Indictment as *FirstAguilar7Account* to send an email
3 to a Mr. Lionel [Hantz], attaching various documents
4 that included a sham Executed Services Agreement
5 between a company, Lyon Oil BV, and an entity
6 identified as shell company No. 2 in this Indictment,
7 as well as between Lyon Oil and another company, Shell
8 Company No. 5, as described in the Indictment.

9 Count Three alleges a violation of the
10 Travel Act and Texas Commercial Bribery under 18 U.S.C.
11 1951(a)(1)(A), 1952(A)(3)(a), and Section 2.

12 This count claims that around October 12,
13 2018 through on or around October 31, 2018, within this
14 Court's jurisdiction and elsewhere, that you and others
15 traveled in and used the mail, as well as one or more
16 facilities in interstate or foreign commerce, with the
17 intent to distribute the proceeds of an unlawful
18 activity, specifically commercial bribery, in violation
19 of Texas Penal Code, Section 32.43, and otherwise
20 promoted, managed, established, carried on, facilitated
21 that unlawful activity, and then knowingly and
22 willfully performed and attempted to perform the
23 distribution of the proceeds of that unlawful activity,
24 and that you aided, abetted, counseled, procured, and
25 willfully caused others to do the same, specifically by

1 using a Gmail account described as
2 *FirstAguilar007Account* to send an email to Mr. Lionel
3 [Hantz] that attached sham invoices from a Shell
4 Company No. 4 to Lion Oil and [Zanza] Oil, each of
5 which were for a total, the sum of approximately
6 \$121,518 U.S. dollars.

7 Counts Four and Five allege money
8 laundering under 18 U.S.C. 1956(a)(2)(B)(1) and Section
9 2. This claims that you knowingly and intentionally
10 committed and aided others to unlawfully transport,
11 transmit, attempt to transport or transmit certain
12 money instruments and funds from within and through the
13 United States to and through one or more places outside
14 the United States, while knowing that those monetary
15 instruments and funds represented the proceeds of
16 unlawful activity, and knowing that these transmissions
17 and transfers were designed to conceal and disguise the
18 nature, location, source, ownership, and control of
19 those proceeds of unlawful activity. And the relevant
20 unlawful activity allegedly consists of felony
21 violations of the FCPA, as detailed elsewhere in the
22 Indictment, and one or more offenses against a foreign
23 nation that involved bribery of a public official and
24 the misappropriation, theft, and embezzlement of public
25 funds by and for the benefit of a public official, in

1 violation of the Mexican Penal Code, as defined in 18
2 U.S.C. 1956(c)(7)(B)(iv); and violations of the Travel
3 Act, 18 U.S.C. 1952(a)(1)(A), and 1952(a)(3)(A).

4 Counts Four and Five identify two specific
5 wire transfers involved. Both occurred on October 21,
6 2018, where you allegedly [u/i] a wire transmission of
7 \$36,000 from a bank account in Mexico in the name of
8 Shell Company No. 2 to a bank account for the benefit
9 of a Mr. Gonzalo Guzman in the Southern District of
10 Texas.

11 Count Five concerns a wire transmission of
12 \$40,000 from a bank account in Mexico in the name of
13 the Shell Company No. 2 to a bank account for the
14 benefit of a Carlo Espinoza Barba, also within the
15 Southern District of Texas.

16 The Government is also seeking forfeiture,
17 which means if you are convicted of any of the offenses
18 in Counts through Five, the Government is seeking to
19 forfeit any property that constitutes or is derived
20 from proceeds that are traceable to those offenses.

21 And also, if you are convicted of the
22 offenses in Counts Four and Five, the Government is
23 also seeking a money judgment against you and could
24 also seek to forfeit other property owned by you as
25 substitute property if provided and permitted under

1 federal law.

2 What is the potential penalty for these
3 offenses?

4 MS. DANIEL: Yes, Your Honor, for Counts One,
5 Two and Three, which are conspiracy to violate the
6 FCPA, 18 U.S.C. 371, Count Two substantive FCPA
7 violation 15 U.S.C. 788DD/2, and Count Three Travel Act
8 violation under 18 U.S.C. 9052, all three of these
9 carry a penalty range of no more than five years, a
10 fine of no more than \$250,000, a hundred dollar special
11 assessment, and no more than three years of supervised
12 release.

13 For Counts Four and Five, which is
14 international concealment money laundering, substantive
15 violation of 18 U.S.C. 1956, and Count Five, another
16 money laundering charge, violation of 18 U.S.C. 1956,
17 they both carry a penalty range of no more than 20
18 years, a fine of no more than \$250,000, a hundred
19 dollar special assessment, and three years supervised
20 release.

21 THE COURT: Now, Mr. Aguilar, without telling
22 me whether you think the allegations are true, do you
23 understand what the Government is claiming that you've
24 done?

25 DEFENDANT AGUILAR MORALES: Yes.

1 THE COURT: Now I'm going to review your basic
2 rights.

3 First, you have the right to remain
4 silent. If you make any statement, it could be used
5 against you. You're not on trial today. You don't
6 have to say anything to me or any court personnel about
7 the facts of your case. You can't be required to be a
8 witness or to testify or to gather witnesses or
9 evidence. You don't have to discuss the case with any
10 law enforcement officials or answer any of their
11 questions. If you've already made a statement, you
12 don't have to say anything else. If you start to make a
13 statement later, you can stop at any time. If you talk
14 to any person other than your lawyers about the case,
15 that person could be forced to testify against you even
16 if they don't want to. So the only person you should
17 talk to about your case is your attorneys. Anything
18 you say to your attorneys is privileged and can't be
19 shared with anyone.

20 Do you understand your right to silence as
21 I've explained it to you?

22 DEFENDANT AGUILAR MORALES: Yes, I do.

23 THE COURT: You also have the right to be
24 represented by an attorney at all stages of your case.
25 If you can't afford an attorney, you can ask the Court

1 to appoint one for you. And I see that you're
2 appearing here with counsel today; is that correct?

3 DEFENDANT AGUILAR MORALES: Correct.

4 THE COURT: So you're not asking the Court to
5 appoint you an attorney at this time?

6 DEFENDANT AGUILAR MORALES: No.

7 THE COURT: All right.

8 Under Rule 5(f) I'm instructing counsel
9 for the United States to comply with its disclosure
10 obligations under *Brady vs. Maryland* and its progeny.
11 Failure to do so could result in dismissal of charges,
12 exclusion of evidence, adverse jury instructions,
13 contempt proceedings, and sanctions.

14 Does the Government understand its
15 disclosure obligation?

16 MS. DANIEL: Yes, Your Honor, we do.

17 THE COURT: I'll enter an order to that
18 effect.

19 What is the Government's position
20 regarding release for Mr. Aguilar?

21 MS. DANIEL: Your Honor, the defendant is
22 currently on bond in the Eastern District of New York
23 for open charges, and we are asking that the same
24 conditions be imposed in the Southern District of Texas
25 as well.

1 THE COURT: How do those compare with the
2 conditions that were proposed by the Pretrial Services
3 Office?

4 MS. DANIEL: I believe those are a mirror
5 image of the same conditions as they are in New York.
6 I haven't had a chance to look at them.

7 THE COURT: Mr. Koffmann, why don't you take a
8 look and discuss these with your client.

9 MR. KOFFMANN: Thank you, Your Honor.

10 **[Pause]**

11 Yes, Your Honor, these are the same
12 conditions that were imposed originally when the case
13 began in the Eastern District of New York. There have
14 been some modifications, principally related to travel
15 that we would propose to include in the [u/i] package
16 in this court.

17 And then there's one open issue, which is
18 with respect to the GPS monitoring. There's a motion
19 pending in the Eastern District of New York to remove
20 the condition of Mr. Aguilar's conditions of release.
21 We would propose to Your Honor to not include GPS
22 monitoring in the conditions in this court so that it
23 sort of rises and falls with the motion in the Eastern
24 District. If he's going to have a bracelet, he's going
25 to have a bracelet, whether in this court or the

1 Eastern District Court.

2 But otherwise, I think these conditions,
3 with the additional travel, are the conditions that we
4 would propose, Your Honor.

5 THE COURT: So what travel conditions are --
6 have been modified since then?

7 MR. KOFFMANN: So the three principal ones,
8 there have been some [runoff] travel requests. But
9 putting those aside, Mr. Aguilar has been granted
10 permission to travel within the entire state of Texas,
11 all judicial districts in Texas, also to Southern
12 District of Florida and to Central District of
13 California, as well as surrounding airports in order to
14 facilitate that travel.

15 THE COURT: All right, I don't have access to
16 those --

17 MR. KOFFMANN: I have a copy here I can hand
18 to your deputy. I just gave a copy to Ms. Daniel.

19 THE COURT: Is this consistent with your
20 understanding, Ms. Daniel?

21 MS. DANIEL: Your Honor, the modification as
22 to travel is consistent with our understanding, and
23 we're fine with the modifications made in New York.

24 As far as the GPS monitoring is concerned,
25 there is an open motion, I believe, in front of the

1 judge in New York, and it is still pending and the
2 judge hasn't ruled on that. So our position is we're
3 asking Your Honor to keep the ankle monitoring until
4 the judge in New York rules on that pending motion.

5 THE COURT: Well, I mean, if he's actively
6 being monitored right now, it seems the most efficient
7 thing is just to let that ride with the Eastern
8 District of New York. And if the judge there decides
9 to remove that, then the monitoring will go away,
10 because it's not like there are two different Pretrial
11 Services Departments that would be monitoring the same
12 monitor; right?

13 MR. KOFFMANN: Well, actually, Your Honor,
14 there are. There is both the Eastern District Pretrial
15 Services, as well as Southern District of Texas.

16 I would note for the record that
17 Mr. Aguilar's Southern District of Texas Pretrial
18 Services Officer consented to our motion in the Eastern
19 District of New York to remove the ankle monitoring.
20 In other words, the Southern District of Texas Pretrial
21 has essentially said they don't see that GPS monitoring
22 or any monitoring is necessary.

23 THE COURT: I mean, given how broad these
24 travel restrictions are, I mean, it doesn't sound like
25 the Government has any serious concerns. I mean, a

1 monitor itself doesn't necessarily prevent somebody
2 from failing to appear. But, I mean, I'm inclined to
3 just let it be and let the Eastern District of New York
4 let the first case decide whether the monitoring is
5 going to continue.

6 Do you know what type of monitoring is
7 being done there? Is it stand-alone?

8 MR. KOFFMANN: It's GPS.

9 THE COURT: Okay, GPS monitoring. So it would
10 be the same here.

11 Let me ask Pretrial Services, how does
12 that work if someone is being monitored and has ankle
13 monitoring in connection with two different cases? I
14 mean, who's getting the data, just the sharing
15 information?

16 PRETRIAL SERVICES: We would be monitoring
17 him, Your Honor.

18 THE COURT: Okay.

19 PRETRIAL SERVICES: And he's currently on GPA
20 right now.

21 THE COURT: Okay, so that data would just be
22 transferred to your office until --

23 PRETRIAL SERVICES: We're already receiving
24 it, Your Honor.

25 THE COURT: Okay, you're already receiving it,

1 okay. Well, then if the Eastern District of New York
2 decides to do away with monitoring, then that will
3 terminate the need for monitoring.

4 PRETRIAL SERVICES: Yes, Your Honor.

5 THE COURT: I think I'll leave it off and
6 let -- since that motion is already pending, we'll let
7 that judge decide what to do there.

8 Is there any -- are there any other
9 conditions that you would like to address?

10 MS. DANIEL: None, Your Honor, as far the
11 Government is concerned.

12 PRETRIAL SERVICES: Your Honor?

13 THE COURT: Yes.

14 PRETRIAL SERVICES: I have a question. Is it
15 a secured bond or an unsecured bone?

16 MR. KOFFMANN: It is secured with a 10,000 --
17 it's a \$100,000 bond secured by a \$10,000 check that
18 was submitted in 2020.

19 THE COURT: Well, that's already been
20 deposited; right?

21 MR. KOFFMANN: Correct.

22 THE COURT: So we don't need to have another
23 \$10,000. Okay, thanks for the clarification.

24 All right, Mr. Aguilar, you will be
25 released until trial in this case as long so long as

1 you follow certain conditions that I'm about to go over
2 with you. If you have any questions about these
3 conditions, please raise them now. If you violate any
4 of these conditions, then I expect the Government will
5 come back to court and ask you be detained in custody
6 until the trial of your case.

7 The first condition, you will need to post
8 \$100,000 unsecured bond. And this means that you could
9 be forced to pay \$100,000 if you don't comply with the
10 conditions of release.

11 There are some general conditions you have
12 to comply with:

13 First, you cannot violate any federal,
14 state, or local law while you're on release.

15 You will need to cooperate in the
16 collection of a DNA sample, if that's permitted by 34
17 U.S.C. 40702.

18 You need to advise the Court or Pretrial
19 Services Office in writing before making any change to
20 your residence or to your telephone number.

21 And you will need to appear in court as
22 required. And if you are convicted, you will need to
23 surrender to serve any sentence that the Court might
24 impose.

25 You will need to submit to the supervision

1 by, and report to supervision here in this courthouse
2 to the Pretrial Services Officer. We'll provide that
3 contact information for you.

4 You will need to -- well, let me ask
5 Mr. Koffmann, does your client have a passport?

6 MR. KOFFMANN: He does not. He surrendered it
7 in 2020.

8 THE COURT: All right. So do not obtain any
9 new passport or travel documents.

10 Your travel will be restricted to the
11 following locations: The state of Texas, the Southern
12 District of Florida, the Central District of
13 California, and the Eastern District of New York.

14 Did I get that right?

15 MR. KOFFMANN: Also Southern District of New
16 York. And I believe the District of D.C. was also an
17 original condition. I missed that in the original --
18 the Pretrial Report, I apologize.

19 THE COURT: All right, let me give the
20 complete list: The state of Texas, the Southern
21 District of Florida, Central District of California,
22 and both the Southern District of New York and Eastern
23 District of New York. I have no idea what the
24 geographic boundaries of those are, so make sure you
25 double check. And if you have questions about that,

1 contact your Pretrial Service Officer in advance of any
2 travel.

3 MR. KOFFMANN: Forgive me, Your Honor, there's
4 also D.C.

5 THE COURT: Oh, District of -- yeah, District
6 of Colombia. Thank you. All right, we'll include that
7 within your travel boundaries.

8 You need to avoid all contact with any
9 co-defendants, witnesses, victims, or potential victims.

10 Do not possess any firearms, destructive
11 devices, or other dangerous weapons.

12 Mr. Koffmann, are there any firearms at
13 Mr. Aguilar's residence?

14 MR. KOFFMANN: I understand that there are
15 none, Your Honor.

16 THE COURT: Okay. Do not use alcohol
17 excessively. Do not use or unlawfully possess any
18 narcotic drug or other controlled substances unless
19 they are prescribed by a licensed medical practitioner.
20 Also, don't use or consume any products containing or
21 marketed as containing CBD.

22 You will need to comply with all of your
23 existing court obligations in the Eastern District of
24 New York.

25 And if you have any contact with law

1 enforcement, even for something as minor as a traffic
2 stop, make sure you report that to the Pretrial
3 Services Offices within 72 hours.

4 It is extremely important that you follow
5 all these conditions carefully. If you violate any of
6 them, that could result in the immediate issuance of a
7 warrant for your arrest, your release could be revoked,
8 you could be jailed until trial, and you could be fined
9 or prosecuted for contempt of court.

10 If you commit a crime while you're on
11 release, the sentence could be more severe than if you
12 committed the same crime at any other time, and the
13 sentence would be added onto any potential sentence you
14 might receive in this case.

15 It is also a crime to attempt to influence
16 a juror, to threaten or attempt to bribe a witness or
17 other person who might have information about the case,
18 to retaliate against someone from providing
19 information about the case, or otherwise obstruct the
20 administration of justice. Those crimes are punishable
21 of up to 10 years imprisonment or a maximum \$250,000
22 fine.

23 Failure to appear in court, as required,
24 is also a crime that result in imprisonment. That
25 sentence would be consecutive to any potential sentence

1 you might receive in this case.

2 Mr. Aguilar, do you understand these
3 conditions?

4 DEFENDANT AGUILAR MORALES: Yes, I do.

5 THE COURT: We'll provide you a copy, a
6 written copy of these conditions, and there will be
7 some paperwork to sign for the unsecured bond.

8 The next hearing in this case will be
9 before Judge George Hanks. Here is the schedule for
10 the case.

11 Motions are due August 31, 2023.
12 September 8th is the deadline for responding to
13 motions. The Pretrial Conference will be before Judge
14 Hanks on October 6, 2023 at 10:00 a.m. And
15 Mr. Aguilar, you will need to be present for that.
16 The case is set for jury trial on October 16, 2023 at
17 9:00 a.m.

18 Ms. Daniel, how many days do you estimate
19 for the trial?

20 MS. DANIEL: Your Honor, four to six weeks.

21 THE COURT: And Mr. Koffmann, does your client
22 waive speedy trial at this time?

23 MR. KOFFMANN: No, Your Honor.

24 THE COURT: All right. Mr. Koffmann, is your
25 client ready to proceed to arraignment?

1 MR. KOFFMANN: Yes, Your Honor. Just before
2 moving on, I don't -- I was listening. I'm not sure if
3 you said it as well, but surrounding airports in the
4 areas to which Mr. Aguilar is permitted to travel, I'm
5 just thinking if he flies to New York, for example, go
6 to New York.

7 THE COURT: Oh, I guess that's in -- yeah,
8 that's in Jersey. I don't know whether that's within
9 the Southern District of New York. Maybe not.

10 MR. KOFFMANN: It's not. It's in the
11 jurisdiction of New Jersey.

12 THE COURT: Okay, all right. Let me clean
13 that up because I know Ms. Willborg is frantically
14 trying to document this, too.

15 Okay. So travel, make sure -- okay, so
16 the entire state of Texas, Southern District of Florida,
17 Central District of California, Southern District of
18 New York, Eastern District of New York, District of
19 Colombia, and the airport serving those areas?

20 MR. KOFFMANN: Yes, I believe that's what we
21 have in the Eastern District.

22 THE COURT: Is that the right way to
23 characterize it?

24 MS. DANIEL: Yes, Your Honor.

25 THE COURT: Okay. All right, so those are

1 your travel boundaries.

2 All right. Mr. Aguilar, the arraignment
3 is the proceeding where you'd enter a formal plea of
4 either not guilty or guilty to the charges against you.

5 Mr. Koffmann, is your client waiving
6 formal reading of the charges?

7 MR. KOFFMANN: Yes, Your Honor.

8 THE COURT: Okay. Mr. Aguilar, have you
9 discussed the charges in this case with your attorney?

10 DEFENDANT AGUILAR MORALES: Yes.

11 THE COURT: Are you ready to enter a plea, yes
12 or no?

13 DEFENDANT AGUILAR MORALES: Yes, not guilty.

14 THE COURT: All right. I'm entering a not
15 guilty plea on your behalf, and you have the schedule
16 for the case.

17 Is there anything else that we can do for
18 Mr. Aguilar?

19 MS. DANIEL: Nothing further from the
20 Government.

21 MR. KOFFMANN: Nothing from the defense.
22 Thank you, Your Honor.

23 THE COURT: All right. Thank you. You are
24 excused.

25 **[2:28 p.m. - Proceedings adjourned]**

C E R T I F I C A T I O N

I certify that the foregoing is a correct transcript of the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Gwen Reed

8-22-23